

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

PUBLIC INTEREST LITIGATION NO. 27 OF 2016

**DEEPAKKUMAR PYARELAL GUPTA
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr.S.A.(Tambat) Dhumnal, Advocate for the petitioner
Mr.S.B.Yawalkar, AGP for the respondent/State
Mr.U.R.Awate. Advocate h/f Mr.S.B.Talekar, Advocate for
respondent No.7

**CORAM : S.S.SHINDE &
S.M.GAVHANE, JJ.**

DATED : 06.04.2018

P.C. :-

. This PIL is filed with as many as four substantive prayers. Learned counsel appearing for the petitioner submits that time being this Court may consider the relief in terms of prayer clause-B and may grant liberty to avail of an appropriate remedy in future if an occasion arises for the reliefs claimed in terms of prayer clauses- (B), (C) & (E).

2. The fact that representation filed by the petitioner on 05.09.2015 to respondent No.2 is not disputed by the learned AGP appearing for the State and its Officials. In that view of the matter and since the petition raises disputed questions of fact, in as much

as, the petitioner is relying upon the panchanama (Exh.G page No.54 to 54-A), which is placed on record in the compilation of the writ petition, and learned AGP and learned counsel appearing for respondent No.7 are relying upon the letter written by the Sub-Divisional Officer, Jalgaon Region, Jalgaon addressed to the Tahasildar, Jalgaon and other two local officials, thereby expressing different views about alleged excavation of sand by respondent No.7, over and above permitted by way of agreement made with contractor, it would be proper to direct respondent NO.2 to decide the said representation keeping in view facts as well as law. In that view of the matter we direct respondent No.2-the District Collector, Jalgaon, to look into the grievances raised in the representation filed by the petitioner, and also various documents on which petitioner, respondent No.7 and other respondents wish to rely, and after affording an opportunity of reasonable hearing, decide the said representation on merits as expeditiously as possible, however within three months from today. Needless to observe that this Court has not expressed any opinion on merits of the contentions raised in this petition and it is for respondent No.2 to take appropriate decision on merits.

3. In case decision is adverse to the petitioner or respondent No.7 as the case may be, aggrieved party will have liberty to challenge such decision before the competent forum as provided in law. Needless to observe that depending upon the outcome of the decision by respondent No.2, it may be open for the petitioner to avail of an appropriate remedy, so as to seek relief in terms of prayer clauses-(B),(C) and (E) in the writ petition.

4. There is consensus amongst the learned counsel appearing for the petitioner, learned AGP and learned counsel appearing for respondent No.7, that parties can appear before respondent No.2, in his Office on 16.04.2018. Accordingly, we direct the parties to appear before respondent No.2 on 16.04.2018.

5. With the above observations PIL stands disposed of.

6. Parties to act upon authenticated copy of this order.

7. List for compliance of today's order/direction on 16.07.2018 under caption "for compliance".

8. The petitioner has deposited of Rs.50,000/- (Rupees Five Thousand Only) in the Registry of this Court. Learned counsel appearing for the petitioner, on instructions, submits that the petitioner is ready to give Rs.10,000/- to the Legal Aid Committee, Aurangabad. The Registry to give/divert the amount of Rs.10,000/- (Rupees Ten Thousand) to the said Committee and remaining amount of Rs.40,000/- and interest accrued thereupon, if any, should be returned to the petitioner.

[S.M.GAVHANE, J.]

[S.S.SHINDE, J.]